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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,747	05/12/2005	Manfred A.A. Lupke	SWH-11817US	9033

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EXAMINER

LEYSON, JOSEPH S

ART UNIT	PAPER NUMBER
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1722

DATE MAILED: 06/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/534,747

Applicant(s)

LUPKE ET AL.

Examiner

Joseph Leyson

Art Unit

1722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☒ Claim(s) 3 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Specification***

1. The abstract of the disclosure does not commence on a separate sheet in accordance with 37 CFR 1.52(b)(4). A new abstract of the disclosure is required and must be presented on a separate sheet, apart from any other text.

### ***Claim Objections***

2. Claim 3 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claim 3 does not recite structure or structural relationships which further limits the molding system apparatus of claim 2 and only further recites intended use of the claimed apparatus. A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. Ex parte Masham, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987); see MPEP 2114. "Expressions relating the apparatus to contents thereof during an intended operation are of no significance in determining patentability of the apparatus claim." Ex parte Thibault, 164 USPQ 666, 667 (Bd. App. 1969). Furthermore, "[i]nclusion of material or article worked upon by a structure being claimed does not impart patentability to the claims." In re Young, 75 F.2d 996, 25 USPQ 69 (CCPA

Art Unit: 1722

1935) (as restated in *In re Otto*, 312 F.2d 937, 136 USPQ 458, 459 (CCPA 1963)). See MPEP 2115.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 6, 7 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The metes and bounds of claim 6 (and claim 7 which depends from claim 6) cannot be clearly understood. Claim 6 recites a "molding apparatus as claimed in Claim 2". However, claim 2 recites a "molding system" and makes no mention of an "apparatus". The examiner suggests changing "apparatus" in line 1 of claim 6 to --system--.

The metes and bounds of claim 10 cannot be clearly understood. Claim 10 recites a "pipe molding apparatus as claimed in Claim 9". However, claim 9 recites a "pipe molding system" and makes no mention of an "apparatus". The examiner suggests changing "apparatus" in line 1 of claim 10 to --system--.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-5 and 8-10 are rejected under 35 U.S.C. 102(b) as being anticipated by German reference (DE 200 09 030).

German reference (DE 200 09 030) teaches a molding system including a plurality of mold blocks 9 which circulate and move along a molding path to form a mold tunnel (i.e., fig. 1) to form double wall plastic pipe having an outer wall with corrugations which set an outside diameter of the pipe corrugations and an inner wall around a bore through the pipe (i.e., figs. 7 and 8), and the mold blocks 9 having profiled faces which determine shape of the pipe. Each mold block 9 includes a mounting surface (i.e., fig. 2), and the system further includes a plurality of mold block face attachments 18, 19, 21, 23, 25 which interchangeably mount to the mounting surface for reconfiguring of the profiled faces of the mold blocks 9 without replacing the mold blocks 9 (i.e., figs. 2-6). Note that, in fig. 5, if only the attachments 23 are reconfigured with the attachments 25, the profiled faces would be reconfigured in profile between a first and a second face profile to vary both depth of the corrugations and diameter of the bore through the pipe without varying external diameter of the pipe, and the profiled faces of the mold blocks 9 when configured with a first face profile 23 forming the pipe with a first corrugation depth and a first bore diameter and when configured with the second face profile 25 forming the pipe with a second corrugation depth greater than the first corrugation depth and a second bore diameter less than the first bore diameter. The inner wall of the pipe has a wall thickness that remains essentially constant when reconfiguring the profiled faces of the mold blocks between the first and second face profiles (i.e., figs. 7 and 8). The profiled faces of said mold blocks include alternating crests and troughs (i.e., figs. 3-6)

Art Unit: 1722

to form the corrugations in the outer wall of the pipe. The attachments include first and second crest forming members 23, 25 for changing the height of the crests (i.e., figs. 5 and 6), the first crest forming members 23 being shorter than the second crest forming members 25 and being used to provide the first face profile on the mold blocks, the second crest forming members 25 being longer than the first crest forming members 23 and being used to provide the second face profile on the mold blocks 9. Locking members (i.e., 20, 22) releaseably lock the attachments.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Art Unit: 1722

9. Claims 6, 7, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over German reference (DE 200 09 030) in view of Lupke et al. (U.S. Patent 6,155,813).

German reference (DE 200 09 030) discloses the claimed apparatus system substantially as claimed except for first and second cooling plugs. Note that when attachments 23 and 25 are interchanged the mold tunnel dimensions are changed.

Lupke et al. (U.S. Patent 6,155,813) disclose an apparatus system for making double walled plastic pipe including a cooling plug 27 for cooling the pipe, the cooling plug 27 is dimensioned relative to the mold tunnel to urge the inner wall 22 of the pipe against the outer wall 18 while in a mold tunnel (i.e., col. 1, lines 25-50; and col. 3, lines 5-18).

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the apparatus system of German reference (DE 200 09 030) with a cooling plug because such a modification would cool the pipe and urge the inner wall of the pipe into the outer wall of the pipe while in the mold tunnel , as disclosed by Lupke et al. (U.S. Patent 6,155,813), and to further modify the apparatus system of German reference (DE 200 09 030) with first and second cooling plugs because German reference (DE 200 09 030) discloses changing the mold tunnel dimensions with the attachments and because Lupke et al. (U.S. Patent 6,155,813) disclose that cooling plugs are dimensioned relative to the mold tunnel. In other words, if the mold tunnel dimensions are changed, then the cooling plug would be

Art Unit: 1722

correspondingly changed since its dimensions are dependent upon the mold tunnel dimensions as disclosed by Lupke et al. (U.S. Patent 6,155,813).

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. DE 101 48 294, WO 03/031155, Seckel (U.S. Patent 3,286,305), Bauman et al. (U.S. Patent 3,430,292), Maroschak (U.S. Patent 3,784,346), Lupke et al. (U.S. Patent 4,226,580), Lupke (U.S. Patent 5,582,849), Hegler (U.S. Patent 6,457,965), and Neubauer et al. (US 2004/0241266) are cited as of interest to show the state of the art.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Leyson whose telephone number is (571) 272-5061. The examiner can normally be reached on M-F 9AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gupta Yogendra can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Art Unit: 1722

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



JL

  
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6/23/06